

The Motor Fuel Tax Law provides that a distributor of motor fuel or a supplier of special fuel may make tax-free sales to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is obtained in lieu of the tax. See 35 ILCS 505/6 item 4 and 35 ILCS 505/6a item 2. (This is a GIL).

June 28, 2002

Dear Xxxxx:

This letter is in response to your letter dated May 16, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am writing on behalf of the AAA to request a private letter ruling on an issue having to do with the Illinois Motor Fuel Tax.

The issues involved are as follows: AAA is exempt from payment of the Illinois Motor Fuel Tax pursuant to sections 35 ILCS 505/6a(2) and 35 ILCS 505/6(4). In order to obtain better fuel pricing, the AAA is considering partnering with another agency to buy fuel for its **non-revenue** vehicles. However, the other agency is not exempt from paying the Illinois Motor Fuel Tax.

We would like to know if it would be possible for the AAA to keep its Illinois Motor Fuel Tax exemption if AAA buys fuel from a supplier in conjunction with another, non-exempt agency. We would also like to know if AAA could keep its tax exemption if the supplier billed AAA directly for its share of the fuel, even if AAA had partnered with another agency to buy the fuel.

To the best of my knowledge, the Department of Revenue has not previously ruled on this or a similar issue for the AAA.

Please contact me if you need more information in order to rule on this issue.

As you know, the Motor Fuel Tax Law provides that a distributor of motor fuel or a supplier of special fuel may make tax-free sales thereof to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is

obtained in lieu of the tax. See 35 ILCS 505/6 item 4 and 35 ILCS 505/6a item 2. The Department's regulation at 86 Ill. Adm. Code 500.280 provides that the Certificate of Exemption shall accompany the distributor's or supplier's monthly Motor Fuel Tax return to the Department to support the claim of exemption. Section 500.280 sets forth a format for the Certificate.

We are not sure what you mean by "non-revenue" vehicles. If this term refers to vehicles used in operating AAA's local transportation system, the AAA is eligible to claim the exemption. However, as you will note, the certification necessary to document the exemption must be from a municipal corporation that owns and operates a local transportation system for public service in Illinois. If the AAA "partners" with another entity that is not eligible for the exemption, the AAA and its "partner" together will not qualify. This is because the purchaser is no longer solely a municipal corporation which owns and operates a local transportation system for public service in Illinois; it also includes another, non-exempt entity.

If the AAA wants to take advantage of a purchasing arrangement which includes the participation of another entity that does not qualify for the exemption, the AAA must keep its purchases separate from those of the other entity. That is, AAA and the other entity could enter into an agreement to buy amounts of fuel that would allow them to take advantage of a better price, but AAA's portion of the purchases must be invoiced to and paid for by AAA separate from the other entity. If the purchases are invoiced to AAA together with the other entity, AAA and the other entity together cannot claim the exemption.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk  
Enc.